

REMARKS

The Applicants submit this Amendment in response to the non-final Office Action mailed May 5, 2006. The Applicants respectfully traverse all pending objections and rejections and request reconsideration of the application.

Claims 1-9 are pending. Applicants have added new independent claim 9 containing similar subject matter as originally-filed claim 1.

Double Patenting Rejections

Claims 1 and 2 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 2 of co-pending U.S. Patent Application Serial No. 10/721,426. In response, Applicants submit the enclosed Terminal Disclaimer, thereby obviating the pending provisional double-patenting rejections.

Rejections under 35 U.S.C. § 102(e)

Claims 1-8 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. US 2003/0233523 to Jamil et al. ("Jamil"). In order to properly establish an anticipation rejection under 35 U.S.C. § 102(e), each and every element of the claims at issue must be found in the applied prior-art reference, either expressly or under principles of inherency. Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). In this case, Jamil fails to disclose each and every element of the Applicants' claimed invention. Accordingly, Jamil cannot legally anticipate the Applicants' pending claims 1-8 under 35 U.S.C. § 102(e).

Applicants' independent claims 1, 5, and 9 call for a combination including, for example, "creating an electronic data element comprising a first field having an identifier and a second field having a state of the identifier, wherein the state of the identifier may be set to... a first state...a second state... [or] a third state," "assigning the identifier to one or more data objects," and "replicating the one or more assigned data objects from the source system to the target system if the state of the identifier is the third state." Jamil fails to teach or suggest at least "one or more data objects" in the context of "assigning the identifier to one or more data objects" and "replicating the one or more assigned data objects from the source system to the target system if the state of the identifier is the third state," as recited in independent claims 1, 5, and 9. In addition, Jamil also fails to teach or suggest the Applicants' claimed first, second, and third states. For at least these reasons, Jamil cannot anticipate claims 1, 5, and 9.

A. Jamil fails to show, teach, or suggest "one or more data objects," as claimed.

In the Office Action dated May 5, 2006, the Examiner appears to have equated various recitations in claims 1 and 5 with allegedly equivalent elements disclosed in Jamil¹. In particular, the Examiner apparently equated the Applicants' claimed "identifier" with data stored in Jamil's shared storage. Office Action, p. 5 ("figure 4, 490; figure 7, 790; figure 9a~9d, 990 all show the data element comprising Data, Status and

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

P fields; the Data field is the corresponding identifier field”) (emphasis in original). The Applicants respectfully disagree with this improper characterization.

Jamil teaches “a coherent shared storage hierarchy in a multiprocessor system, [in which] a shared data storage unit provides storage portions to hold data, which may be called data portions, and storage portions to hold corresponding status encodings, which may be called status portions.” Jamil, para. [0026]. The multiprocessor system in Jamil includes a plurality of processors, each having its own private storage unit coupled to the shared data storage unit. See, e.g., Jamil, fig. 6 (processors 601-608 each has its own private storage unit coupled to the shared storage 690). In operation, a processor may request to read a particular data portion stored in the shared storage. See Jamil, para. [0050] (“processor i requests to read a data portion”). In accordance with Jamil’s coherent storage hierarchy, a status encoding associated with the requested data portion is used to identify the location of an up-to-date copy of the requested data portion, which is then supplied to the requesting processor’s private storage unit. See Jamil, para. [0032] and fig. 2.

First, Jamil fails to teach or suggest “assigning the identifier to one or more data objects,” as recited in claims 1, 5, and 9. As noted, the Examiner has equated the data portions in Jamil with the Applicants’ claimed “identifier.” See Office Action, p. 5 (“the Data field is the corresponding identifier field.”) Therefore, in order for Jamil to satisfy the Applicants’ claimed step of “assigning the identifier to one or more data objects,” the data portions (i.e., the alleged “identifiers”) in Jamil would have to be assigned to one or more data objects. However, Jamil does not disclose this. Rather, the data portions in

Jamil are instead requested by processors and assigned to the requesting processors' private storage units, for example, as shown in figs. 2 and 6.

Since the private storage units in Jamil are hardware devices, Jamil's disclosure of assigning data portions to private storage units is not equivalent to "assigning the identifier to one or more data objects" (emphasis added), as claimed. More specifically, the Applicants expressly define the term "data object" in their specification, as follows:

The term "data object" broadly refers to any kind or type of data, e.g. numerical or textual data, image data, meta data, irrespective of whether the data are implemented as whole files or parts of files or fields in tables, and irrespective of whether they are stored in volatile memory or non volatile memory.
Specification, para. [031]

Accordingly, Jamil's disclosure of assigning data portions (i.e., the alleged "identifiers") to private storage units cannot correspond to "assigning the identifier to one or more data objects," as recited in claims 1, 5, and 9.

Jamil similarly fails to teach or suggest "replicating the one or more assigned data objects from the source system to the target system if the state of the identifier is the third state," as claimed. Again it is noted that the Examiner has equated the data portions in Jamil with the Applicants' claimed "identifier." See Office Action, p. 5 ("the Data field is the corresponding identifier field.") As discussed above, because the data portions in Jamil are assigned to one or more private storage units, the Examiner has necessarily equated the private storage units in Jamil with the Applicants' claimed "one or more data objects." However, since the private storage units are physical memory devices that are not replicated from a source system to a target system, they likewise

cannot be “one or more assigned data objects” in the context of “replicating the one or more assigned data objects from the source system to the target system if the state of the identifier is the third state,” as recited in claims 1, 5, and 9.

Applicants further note that the Examiner appears to have improperly equated the data portions in Jamil with not only the Applicants’ claimed “identifier,” but also with the Applicants’ claimed “one or more assigned data objects.” Office Action, p. 6 (“figure 6 shows that, when the status changes from ED to M, data object 646 is copied from a source system (processor 604) to a target system (processor 608)”). Applicants respectfully submit that the data portions in Jamil cannot be reasonably equated with both the Applicants’ claimed “identifier” and “one or more data objects,” as suggested in the Office Action, since such an interpretation of Jamil would require the Applicants’ claimed step of “assigning the identifier to one or more data objects” to correspond to Jamil’s data portions being assigned to themselves, which does not make logical sense. As evidenced by this nonsensical result, Applicants submit that the data portions in Jamil cannot be equated with both the Applicants’ claimed “identifier” and “one or more assigned data objects,” as suggested in the Office Action.

In summary, since Jamil fails to teach or suggest “one or more data objects,” as recited in independent claims 1, 5, and 9, Jamil cannot teach or suggest “assigning the identifier to one or more data objects” and “replicating the one or more assigned data objects from the source system to the target system if the state of the identifier is the third state,” as claimed. For at least this reason, Applicants request that the Examiner reconsider and withdraw the pending 35 U.S.C. § 102(e) rejections of claims 1 and 5.

Claims 2-4 and 6-8 depend on independent claims 1 or 5 and are therefore allowable for at least the same reasons.

B. Jamil fails to show, teach, or suggest “a first state,” as claimed.

Each independent claim 1, 5, and 9 calls for a combination including, for example, “a first state, in which said electronic data element may be accessed by one or more data object processing operations and whereby said identifier is assignable to one or more data objects.” The Applicants respectfully submit that Jamil fails to teach or suggest “a first state,” as claimed, since Jamil fails to teach or suggest at least “said identifier is assignable to one or more data objects.” For at least this reason, Jamil cannot anticipate claims 1, 5, or 9.

As previously discussed, the Examiner’s rejections equated the Applicants’ claimed “identifier” with data portions disclosed in Jamil. However, the data portions in Jamil are not “assignable to one or more data objects” (emphasis added), as recited in claims 1, 5, and 9. Rather, the data portions are instead assigned to private storage units. As such, the data portions in Jamil cannot be an “identifier is assignable to one or more data objects,” as recited in claims 1, 5, and 9.

Because Jamil fails to teach or suggest at least “said identifier is assignable to one or more data objects,” Jamil cannot teach or suggest “a first state, in which said electronic data element may be accessed by one or more data object processing operations and whereby said identifier is assignable to one or more data objects,” as recited in claims 1, 5, and 9. Accordingly, the Applicants request that the Examiner reconsider and withdraw the pending 35 U.S.C. § 102(e) rejections of these claims.

Claims 2-4 and 6-8 depend on independent claims 1 or 5 and are therefore allowable for at least the same reasons.

C. Jamil fails to show, teach, or suggest "a second state," as claimed.

Each independent claim 1, 5, and 9 calls for a combination including, for example, "a second state, in which said electronic data element may not be accessed by one or more data object processing operations and whereby said identifier is assignable to one or more data objects." The Applicants respectfully submit that Jamil fails to teach or suggest "a second state," as claimed, since Jamil fails to teach or suggest at least "said identifier is assignable to one or more data objects." Accordingly, Jamil cannot anticipate claims 1, 5, or 9.

As previously discussed, the Examiner's rejections equated the Applicants' claimed "identifier" with data portions disclosed in Jamil. However, the data portions in Jamil are not "assignable to one or more data objects" (emphasis added), as recited in claims 1, 5, and 9. Rather, the data portions are instead assigned to private storage units. As such, the data portions in Jamil cannot be an "identifier is assignable to one or more data objects," as recited in claims 1, 5, and 9.

Because Jamil fails to teach or suggest at least "said identifier is assignable to one or more data objects," Jamil cannot teach or suggest "a second state, in which said electronic data element may not be accessed by one or more data object processing operations and whereby said identifier is assignable to one or more data objects," as recited in claims 1, 5, and 9. Accordingly, the Applicants request that the Examiner reconsider and withdraw the pending 35 U.S.C. § 102(e) rejections of these claims.

Claims 2-4 and 6-8 depend on independent claims 1 or 5 and are therefore allowable for at least the same reasons.

D. Jamil fails to show, teach, or suggest “a third state,” as claimed.

Each independent claim 1, 5, and 9 calls for a combination including, for example, “a third state, in which said electronic data element may not be accessed by one or more data object processing operations and whereby said identifier is not assignable to one or more data objects.” The Applicants respectfully submit that Jamil fails to teach or suggest at least “a third state,” as claimed. Accordingly, Jamil cannot anticipate claims 1, 5, or 9.

The Examiner appears to suggest that Jamil teaches “a third state... whereby said identifier is not assignable to one or more data objects” (emphasis added), as recited in claims 1, 5, and 9. To that end, the Examiner reasons that “figure 4, 490; figure 7, 790; figure 9a~9d, 990 [in Jamil] show the assignment” (emphasis added). Office Action, p. 6. Regardless of the accuracy of this characterization of Jamil, the Examiner’s reasoning does not support the pending anticipation rejections of claims 1 and 5 under 35 U.S.C. § 102(e). More specifically, because claims 1, 5, and 9 explicitly recite “said identifier is not assignable to one or more data objects,” any disclosures in Jamil that “show the assignment” cannot teach or suggest “a third state... whereby said identifier is not assignable,” as claimed.

In view of the foregoing, Applicants submit that Jamil fails to teach or suggest at least “a third state, in which said electronic data element may not be accessed by one or more data object processing operations and whereby said identifier is not assignable to one or more data objects,” as recited in claims 1, 5, and 9. Accordingly, the

Applicants request that the Examiner reconsider and withdraw the pending 35 U.S.C. § 102(e) rejections of these claims.

Claims 2-4 and 6-8 depend on independent claims 1 or 5 and are therefore allowable for at least the same reasons.

Conclusion

The preceding remarks are based only on the arguments in the Office Action, and therefore do not address patentable aspects of the invention that were not addressed by the Examiner in the Office Action. The claims may include other elements that are not shown, taught, or suggested by the cited art. Accordingly, the preceding remarks in favor of patentability is advanced without prejudice to other bases of patentability.

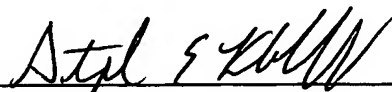
In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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